

SCHEDULE OF ANCILLARY MEETINGS—Continued

Klamath Fishery Management	As necessary
Salmon Advisory Subpanel	As necessary
Salmon Technical Team	As necessary
Tribal Policy Meetings	As necessary
Tribal and Washington Enforcement Consultants	As necessary

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326-6352 at least 5 days prior to the meeting date.

Dated: March 13, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 01-6624 Filed 3-13-01; 4:24 pm]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031301C]

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Highly Migratory Species Plan Development Team (HMSPDT) will hold a work session, which is open to the public.

DATES: The HMSPDT will meet on Monday, April 9, through Friday, April 13, 2001. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The work session will be held in the large conference room at

NMFS Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, Room D-203, La Jolla, CA 92038-0271; telephone: (619) 546-7000.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Dan Waldeck, Pacific Fishery Management Council; telephone: (503) 326-6352.

SUPPLEMENTARY INFORMATION: The HMSPDT will meet on Monday, April 9, 2001, 8 a.m. to 5 p.m.; Tuesday, April 10, 2001, 8 a.m. to 5 p.m.; Wednesday, April 11, 2001, 8 a.m. to 5 p.m.; Thursday, April 12, 2001, 8 a.m. to 5 p.m.; and Friday, April 13, 2001, 8 a.m. until business for the day is completed.

The primary purpose of the work session is to revise the draft fishery management plan (FMP) for highly migratory species (HMS) per Council guidance stemming from the March 2001 Council meeting. The second draft of the FMP is scheduled for review at the June 2001 Council meeting.

Although nonemergency issues not contained in the HMSPDT meeting agenda may come before the HMSPDT for discussion, those issues may not be the subject of formal HMSPDT action during this meeting. HMSPDT action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the HMSPDT's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 326-6352 at least 5 days prior to the meeting date.

Dated: March 13, 2001.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 01-6639 Filed 3-16-01; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. 010307056-1056-01]

RIN 0651-AB36

Request for Comments on the International Effort to Harmonize the Substantive Requirements of Patent Laws

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of request for public comments.

SUMMARY: The United States Patent and Trademark Office (USPTO) is seeking comments to obtain the views of the public on the international effort to harmonize substantive requirements of patent laws, and the subsequent changes to United States law and practice. Comments may be offered on any aspect of this effort.

DATES: Comments will be accepted on a continuous basis until April 30, 2001. See discussion of "Text" in the **SUPPLEMENTARY INFORMATION** below.

ADDRESSES: Persons wishing to offer written comments should address those comments to the Director of the United States Patent and Trademark Office, Box 4, United States Patent and Trademark Office, Washington, DC 20231, marked to the attention of Mr. Jon P. Santamauro.

Comments may also be submitted to Mr. Santamauro by facsimile transmission to (703) 305-8885 or by electronic mail through the internet at scpccomments@uspto.gov. All comments will be maintained for public inspection in Room 902 of Crystal Park II, at 2121 Crystal Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. Jon P. Santamauro by telephone at (703) 305-9300, by fax at (703) 305-8885 or by mail marked to his attention and addressed to Director of the United States Patent and Trademark Office, Box 4, Washington, DC 20231.

SUPPLEMENTARY INFORMATION:

1. Background

The United States has been involved in an effort to harmonize the substantive patent laws in the different countries of the world. The Standing Committee on the Law of Patents (SCP), meeting under the auspices of the World Intellectual Property Organization (WIPO), is developing treaty articles, rules and practice guidelines that attempt to harmonize the different substantive requirements associated with obtaining patent protection throughout the world.

Upon conclusion, these treaty articles, rules and practice guidelines will provide a truly harmonized system governing not only the substantive law of patents, but also the practice to implement that law. This will allow for uniform treatment of patent applications and patent grants and will reduce costs for patent owners in obtaining and preserving their rights for inventions in many countries of the world.

The next SCP meeting will take place at WIPO in May 2001. It is likely that an additional meeting will be held in November 2001 and regular meetings will continue thereafter.

The United States Patent and Trademark Office, leading the negotiations for the United States, is interested in obtaining comprehensive comments to assess support for the effort.

2. Issues for Public Comment

Written comments may be offered on any aspect of the draft treaty articles, rules or practice guidelines or expected implementation in the United States. The purpose of this notice is to identify and briefly outline important issues that have arisen and are likely to arise during the meetings of the SCP. A brief summary of some of these issues is provided below. Any comments provided with regard to the particular items identified below should be numbered in correspondence with the numbering of these items as shown. Comments offered on other aspects should be provided under the heading "Other Comments."

(1) As to priority of invention, the United States currently adheres to a first-to-invent system. The remainder of the world uses a first-to-file rule in determining the right to a patent. Please comment as to which standard is the "best practice" for a harmonized, global patent system. It is noted that while the current draft of the treaty does not address this issue explicitly, it is likely that it will be raised in future meetings.

(2) As to what inventions may be considered patentable subject matter, the United States currently provides a test of whether the invention is within one of the statutory categories of 35 U.S.C. 101 and within the "useful arts" as expressed in the United States Constitution. The "useful arts" test requires that the claimed invention have a practical application providing a "useful, concrete and tangible result," see *State Street Bank & Trust Co. v. Signature Financial Group, Inc.*, 149 F.3d 1368 (Fed. Cir. 1998). In contrast, the patent laws of some countries require that the invention provide a "technical contribution" in order to be

eligible to be patented. The "technical contribution" requirement is generally considered to be more restrictive in determining what inventions may be patented.

(3) United States law currently provides for an enablement requirement, a written description requirement and a best mode requirement for patent disclosures. As to enablement, the standard of "undue experimentation" is applied. Regarding written description, United States law requires that the description convey to one of ordinary skill in the art that the applicant had possession of the invention as of the filing date of the application. The best mode requirement under United States law contains both subjective and objective components, with a subjective inquiry related to concealment on the part of the applicant. Standards vary among different patent systems as to disclosure requirements. For example, most other developed countries do not include a best mode requirement, yet many developing countries include or support a best mode requirement that is portrayed by some as a mechanism to compel technology and know-how transfer. The standard for evaluating compliance with such a requirement is an objective one; but, it is objective from the perspective of the examining authority.

(4) As to the contents of claims, some patent systems require the identification of "technical fields" to which the claimed invention relates. This apparently limits, to some degree, the categories of invention to which claims may be directed. There is no such requirement under current United States law.

(5) With regard to the issue of multiple inventions contained in a single patent application, most of the world uses a "unity of invention" standard, which is also contained in the Patent Cooperation Treaty (PCT). For national applications, the United States currently uses a restriction practice based on independence and patentable distinctness between claimed inventions.

(6) United States law currently provides a utility requirement for patentability in 35 U.S.C. 101. Utility of an invention must be specific, substantial and credible. Most other patent systems have a requirement for industrial applicability. Industrial applicability is generally considered to be a narrower standard than utility, as it requires that the invention be usable in any type of industry.

(7) Current discussions in the SCP have indicated a willingness to

implement a global priority date as to the prior art effective date of patent applications that are published or granted as patents. United States law now limits the prior art effective date of United States patents and United States patent applications to their effective filing date in the United States. See *In re Hilmer*, 359 F.2d 859 (CCPA 1966) and 35 U.S.C. 102(e). Further, United States law currently limits the prior art date as to foreign patent publications to their publication date, although international application publications are available as of their filing date, if published in English. See 35 U.S.C. 102(e).

(8) United States practice allows patent applications to be considered prior art as to situations of both novelty and obviousness, provided the application is earlier filed and is published or granted as required by 35 U.S.C. 102(e). Some other patent systems apply this type of prior art only with respect to novelty, due to concerns of the effect of what may be considered "secret" prior art. Such a novelty-only system, however, may also allow for the granting of multiple patents directed to obvious variations of inventions.

(9) United States patent law provides a "grace period". Disclosures by the inventor during the "grace period" do not have a patent defeating effect. Some other systems have an "absolute novelty" requirement such that any disclosures, including those by an inventor himself, made prior to the date the application is filed, are considered prior art.

(10) Recent discussions at the SCP have indicated a willingness on the part of many member states to eliminate any geographical restrictions that limit the definition of prior art. Currently, United States prior art requirements limit certain types of disclosures to acts within particular geographical limitations, such as the territory of the United States.

(11) United States law provides for loss of right provisions, as contained in 35 U.S.C. 102(c) and 102(d), that discourage delays in filing in the United States. Further, 35 U.S.C. 102(b) bars the grant of a patent when the invention was "in public use or on sale" more than one year prior to filing in the United States. Secret commercial use by the inventor is covered by the bar in order to prevent the preservation of patent rights when there has been successful commercial exploitation of an invention by its inventor beyond one year before filing. Most other patent systems do not have such provisions.

(12) Current United States novelty practice allows, in limited

circumstances, the use of multiple references for the anticipation of a claim under 35 U.S.C. 102. These circumstances include incorporation by reference, the explanation of the meaning of a term used in the primary reference or a showing that a characteristic not disclosed in the primary reference is inherent. Some other systems have stricter requirements for the use of additional references as to the determination of novelty.

(13) United States practice in determining obviousness under 35 U.S.C. 103 follows the practice set forth in *Graham v. John Deere*, 383 US 1 (1966), and its progeny. Obviousness determinations vary throughout different patent systems. For example, some provide for a problem-solution approach, requiring the identification of a technical problem to be solved by the invention. There is no such requirement under United States law.

(14) Current United States practice limits the filing of multiple dependent claims in 37 CFR 1.75(c) such that these claims must refer to the claims from which they depend only in the alternative. Further, a multiple dependent claim cannot depend from another multiple dependent claim. Some other patent offices allow for multiple dependent claims without these restrictions.

(15) There has also been discussion within the SCP regarding the manner in which claims should be interpreted as to validity. It is not clear at this time whether both pre-grant and post-grant interpretation issues will be addressed. However, we are interested in comments with regard to any claim interpretation issues at this time as these issues may appear in future SCP meetings. For example, the United States generally subscribes to a peripheral claiming approach to interpretation in which the language of the claims dominates, although United States law provides that when an element in a claim is expressed as a means or step for performing a function, the claim will be construed to cover the corresponding structure, material or acts described in the specification and equivalents thereof, see 35 U.S.C. 112, paragraph 6. Other systems take a different, centrally focused view of the claimed invention that allows, in certain circumstances, for broader interpretation of the scope of the claimed invention.

(16) With further regard to claim interpretation, the United States currently applies the "doctrine of equivalents" when appropriate in interpreting claims in post-grant infringement cases. The "doctrine of

equivalents" has continued to evolve in the United States, especially in view of the recently decided case of *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.*, 234 F.3d 558 (Fed. Cir. 2000). Furthermore, the European Patent Convention (EPC) was recently amended to provide a more explicit basis for "doctrine of equivalents" determinations in the text of newly added Article 2 of the Protocol on the Interpretation of Article 69 EPC. This doctrine has also been recognized in litigation in Japan. However, some systems do not provide for such equivalents.

(17) United States practice now requires that a patent be applied for in the name or names of the inventor or inventors. However, some systems allow for direct filing by assignees. Although the draft treaty text is currently silent on this issue, it may be raised at future meetings.

3. Text of the Draft Treaty, Rules and Practice Guidelines

There are preliminary drafts of both the treaty articles and regulations posted at the WIPO web site for the Standing Committee on the Law of Patents at <http://scp.wipo.int>. The proposed treaty articles currently contain two "styles" for the text of each article, provided as Alternatives A and B. Alternative A represents the "old style" type of language used by the International Bureau at WIPO for many years in previous discussions on the topic of harmonization. Alternative B is a "new style" that represents a departure from the "old style". The "new style" is simpler and appears to present the issues regarding patent applications and examination in a more logical, internally consistent approach. Comments on the style of text, as well as the content, are solicited.

WIPO has expressed an intent to publish multiple drafts of these documents prior to the May 2001 meeting. The USPTO plans to comment on each draft as it is made available, taking into account the expressed views of the public. To that end, the USPTO encourages the submission of comments from the public on each draft as soon as possible after it is posted on the SCP web site mentioned above. To facilitate final preparations for the May 2001 meeting, the USPTO requests that all comments be submitted no later than April 30, 2001.

Requests for paper copies of the above texts may be made in writing to Mr. Jon P. Santamauro at the above address or by telephone at (703) 305-9300.

Dated: March 12, 2001.

Nicholas P. Godici,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 01-6641 Filed 3-16-01; 8:45 am]

BILLING CODE 3510-16-P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Short Supply Request Under the United States—Caribbean Basin Trade Partnership Act (CBTPA)

March 14, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA)

ACTION: Request for public comments concerning a request for a determination that 30 singles and 36 singles solution dyed staple spun viscose yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner under the CBTPA.

FOR FURTHER INFORMATION CONTACT: Janet E. Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUMMARY:

On March 12, 2001 the Chairman of CITA received a petition on behalf of FabricTex alleging that 30 singles solution dyed staple spun viscose yarn and 36 singles solution dyed staple spun viscose yarn, for use in knit fabric, classified in subheading 5510.11.0000 of the Harmonized Tariff Schedule of the United States (HTSUS), cannot be supplied by the domestic industry in commercial quantities in a timely manner. It requests that the President proclaim that apparel articles of U.S. formed fabrics of such yarns be eligible for preferential treatment under the CBTPA. CITA hereby solicits public comments on this request, in particular with regard to whether 30 singles solution dyed staple spun viscose yarn and 36 singles solution dyed staple spun viscose yarn can be supplied by the domestic industry in commercial quantities in a timely manner. Comments must be submitted by April 3, 2001 to the Chairman, Committee for the Implementation of Textile Agreements, Room 3001, United States Department of Commerce, 14th and Constitution, NW., Washington, DC 20230.